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(3) The procedure adopted in the several Courts was also not uniform and that would be evident if a statement of the fees levied under the different sections were called for and examined.

(4) The Members of the Assembly continued to be Members till the next session according to Rule 11 of the Assembly Rules. Their communications to the Government during the period were being classed as petitions and court fees insisted on them. The Member knew of a case in which the Government held that no stamp was necessary in such cases. He prayed that it might be declared so and the benefit of the exemption allowed to all.

(5) Under Clause 1 (*b*) of Schedule II to the Court Fees Regulation, court fee was prescribed only for *complaints* or *charges* to the Magistrate in non-cognizable cases. The Regulation specifically exempted complaints in cognizable cases. But the Courts were levying fees on *all* petitions presented by the parties and witnesses at any stage of the trial in both cognizable and non-cognizable cases. Under the Regulation there was no justification for the levy and the preamble also went to support the same view.

(6) In cases where a witness produced a document in obedience to the summons from a Court, his subsequent application for the return of that document was now charged with a fee of half a rupee.

The Member requested that the matter be looked into and the grievances of the people redressed, by issuing clear rules for the guidance of the Courts, and if necessary, by modifying the Regulation. In any case, it was obvious that there should be uniformity in the interpretation of the Regulation.

Dewan's reply.—Noted.

(2) Criminal Justice.

39. Reforms in the administration of Criminal Justice.

Mr. P. Padmanabhan Tampi (Member, T. I. C., Padmanabhapuram) observed that the administration of Criminal Justice was an index to the administration of a State. The administration of Civil Justice related always to property only, whereas that of Criminal Justice related to life, reputation and property as well. But, in Travancore, he regretted to observe that the administration of Criminal Justice was being considered only secondary to that of Civil Justice. He pointed out that only graduates-in-law, having some experience either in the Courts or at the bar, were being appointed as Munsiffs and Judges, whereas people who had a bare law qualification, such as Magistrate's Test, Criminal Higher or Lower, Pleadership Test, &c., were being appointed as Magistrates. No experience in the Judicial Department was deemed necessary for a Magistrate. He, therefore, suggested that graduates-in-law of sufficient standing only should be appointed as Magistrates.

Next, he proposed that the judicial and executive functions be separated. It was gratifying that Stationary Magistrates without executive powers were being appointed now in

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some places. The responsibilities of both the officers were quite different. A judicial officer, as such, had to shut his eyes and ears against everything except that which was brought before him in the Court, while an executive officer had to freely mingle with the people, and know their wants in person. The Tahsildar was answerable in the various branches of his work to so many heads of departments, such as the Dewan Peishkar, the Account Officer, the Excise Commissioner, the Sanitary Commissioner, the Survey Superintendent, the Director of the Observatory and the Conservator of Forests. It was to such an officer, who had so many executive branches of work to attend to, that the important and sacred duty of administering Criminal Justice was also entrusted. The quality of work of the Magistracy naturally deteriorated, and by quoting figures and the remarks made by the Government on the work of the subordinate and the superior Magistracy, he showed that the Government had also realised it. When the District Magistrates were judicially engaged in hearing cases, their attention was at times partially diverted in signing their revenue papers also. The judicial work done in the circuiting camps of the Magistracy were giving unnecessary worries and difficulties to the vakils and parties who had to follow them. The District Magistrates did not pay much attention to the examination of the subordinate Courts, as was evident from the remarks of the Government on the subject made from year to year. He then referred to the personal opinion of the Dewan, as seen from his evidence before the Public Service Commission, and said that that also was in favour of the separation of the judicial and executive functions. If it was feared that the separation would deprive the Tahsildars of the major portion of their work and that they would not have enough work to occupy their time, he suggested that the number of revenue taluks might be reduced. The present average area of a revenue taluk was 217 sq. miles while that of a neighbouring taluk in British India was above 600 sq. miles. Now that the abolition of tax-in-kind had reduced the complication of revenue accounts and the important Maramat works were being done by the Public Works Department, the number of taluks admitted of considerable reduction. There were now in each division a Peishkar and an Assistant. One of them might be wholly entrusted with the revenue and the other with the magisterial work of the division. As for the additional expenditure involved in the scheme, the Member said that "the administration of justice should be taken more into account than the expenditure" and that there was also a net balance of Rs. 2,92,301 on that account in 1087, which would justify the reform proposed. He also advocated that the Magistrates should be placed directly under the orders of the High Court. The practice of keeping them under the executive Government affected, in the opinion of the Member, the quality of their decisions. By way of illustration, he mentioned that, in cases charged before them under special and local laws, as much as 90 per cent ended in conviction.

Another difficulty experienced by the people in regard to the administration of Criminal Justice was in moving bail applications of convicted persons before the District Magistrates. When a Magistrate convicted a person, copy of the judgment would be supplied to him only after the

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calender was sent. Then, if the District Magistrate was on circuit, the prisoner's vakil would have to travel from place to place to meet him and move the question. During the intervening period, the person convicted might unnecessarily be put to work. To obviate the difficulty, he suggested that, in bailable cases, the trying Magistrate might be empowered to grant bail and suspend the sentence, as was done in punishments of whipping. In non-bailable cases, the District Magistrates might be asked to hear bail applications without insisting on the production of copies of judgments, which would have come to them from the subordinate Courts.

He next dealt with the hardship experienced by under-trial prisoners. Law presumed innocence until the Court found a man guilty. But the actual experience appeared to be otherwise. The position of the convicts was in some respects better than that of under-trial prisoners. The subject was brought forward at the second and third sessions of the Assembly by Messrs. Raman Tampi and Bhaskara Menon, who urged for the establishment of sub-jails attached to each Court for the custody of under-trial prisoners and convicts under the care of warders. Their suggestions were noted for favourable consideration, but nothing was done till now. He therefore suggested that the condition of the under-trial prisoners might be improved in the following manner, *viz.*, they should not be kept under Police custody ; they should not be locked up with the convicts; a liberal allowance to meet their daily wants should be made; bedding and clothing should be supplied to them as in the hospitals; they should be allowed to get a shave; they should not be put to work; and a separate register should be kept and the local medical officer should be asked to note the condition of the-under-trial prisoners at least once a week.

The Member then advocated the necessity for establishing special Courts for the trial of juvenile and female offenders. The Reformatory at Trivandrum was doing good work and the provision of a separate Court for the juvenile offenders along with it would suffice. He examined the statistics for the past five years to show that the percentage of the number of females convicted was very low. The prosecutions were therefore mostly frivolous. By the appointment of special Courts, the inconvenience and trouble endured by females could be stopped, and the Government would incur no additional expense on that account if they appointed for the purpose Honorary Magistrates in all important centres from the ranks of retired officials and vakils.

The next reform that he proposed was the introduction of the jury system into the Courts of the State. The question had been engaging the attention of the Government for the last 50 years. A Bill was introduced in the Council to amend the Criminal Procedure Code by embodying therein a few sections for the trial with the aid of jury and assessors, but the sections relating to the trial with the jury and assessors were expunged from the Bill at a later stage. He requested that the same be introduced now.

Lastly, he said that capital punishment was a relic of the old principle of vengeance, an eye for an eye and a tooth for a tooth. It was high time that such brutal

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punishment was expunged from the law of all civilized countries. To Travancore the idea was not new, for the law had already exempted Brahmins and women from capital punishment. He prayed that the exemption might be made general.

Dewan's reply.—Noted.

40. Desirability of transferring the Thriuvancode pakuthi from the Colachel to the Eraniel Magistrate.

Mr. K. Mytheen Pillai (Member, Nominated) said that, in the redistribution of criminal jurisdiction, the Thiruvancode *pakuthi*, which was 9 miles away from Colachel, was transferred to that Magistrate, and the Thalakulam *pakuthi* very near Colachel shifted to the jurisdiction of the Eraniel Magistrate. Eraniel was 2½ miles and Kalkulam 2 miles from Thiruvancode. In consequence, petty thefts were on the increase and the people were put to much inconvenience. He requested that Thiruvancode might be transferred to Eraniel as of old or at least to Kalkulam.

Dewan's reply.—Noted.

41. The need for a Magistrate's Court at Kazhakuttam.

Mr. M. K. Govinda Pillai, B A. & B L. (Member, Trivandrum taluk) said that Kazhakuttam was situated between Trivandrum and Attingal. It was 10 miles from Trivandrum and 11 miles from Attingal. A reference to the map would show that it was in the centre of the taluk. The Taluk First Class Magistrate's Court was now held at one end of it. The taluk really lay on the north. Now that there was a Police station at Kazhakuttam, much difficulty was experienced in charging cases from that station. Even for a day's remand, the person arrested had to be brought to a distance of 10 miles. The result of it was that, in many cases, the Police would not make any arrests effectively. Formerly, there was a Magistrate's Court at Kazhakuttam; that was in the Police Amin's time. There were now Magistrates' Courts at Neyyattinkara, Nedumangad, Attingal, and Warkalay, at a distance of 10 miles of each other. As the Taluk Magistrate was also the First Tahsildar, it might be difficult, owing to his many urgent and onerous duties, to transfer his head-quarters to Kazhakuttam. But in view to obviate the inconveniences pointed out, he requested that a Magistrate's Court might be established at Kazhakuttam.

Dewan's reply.—Noted.

42. The desirability of ruling that certain officers should not be allowed to remain in one taluk for more than two years and the necessity for investing the Shertallai Tahsildar with First Class powers.

Mr. Devan Krishnan Karthavu (Member, Shertallai taluk) said that the present practice of keeping the Tahsildar, Munsiff, Police Inspector and such other officers at any place for any number of years had resulted in much hardship to the people. By long stay at any place they became intimately acquainted with the wealthy and influential people of the locality, and it naturally led to so many evils. The Member therefore prayed that it be ruled that such officers should not be kept at any place for more than two years. He further represented that, as the result of their complaints, they were given a Tahsildar with first class powers, but owing to the recent transfer of that officer, they were again forced to fall back on their old complaint. The Member requested that, if the Government were not prepared to appoint a Stationary First Class Magistrate for Shertallai, the local Tahsildar should always be one invested with first class powers.

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